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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,573	01/22/2004	Neil J. Goldfine	1884.2021-001	4895
21005	7590	10/18/2005	EXAMINER	
HAMILTON, BROOK, SMITH & REYNOLDS, P.C.			CHERRY, STEPHEN J	
530 VIRGINIA ROAD			ART UNIT	
P.O. BOX 9133			PAPER NUMBER	
CONCORD, MA 01742-9133			2863	

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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20051012

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**Commissioner for Patents**

Please see attached communication

Art Unit: 2863

Amended claims 27-36 are directed to an invention that is independent or distinct from the invention originally claimed, and examined on the merits in a first office action.

Election was made, in the response dated 2-28-2005, to claims 27-33, as originally presented in the application. Although the preambles of original claim 27, and currently amended claim 27 are the same, the original claim recited a baseline condition from an eddy current sensor, while the presently amended claim does not require a baseline established by the eddy current sensor and further adds the limitation of performing future inspections, thereby claiming another invention (see MPEP 819). The originally filed and elected invention described in claims 27-33 and the invention currently described in amended claims 27-36 are related as follows:

- I. Method and apparatus method for health control involving determining early stage damage based on a variation of an absolute electrical property and performing future inspections involving a baseline of the absolute electrical quantity, as described in claims 27-36 as amended 7-27-2005, classified in class 702, subclass 83.
- II. Method for health control using eddy current sensor to establish a baseline condition, as originally present in claims 27-33, classified in class 702, subclass 65.

Inventions I and II are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as

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claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the establishment of a baseline condition with an eddy sensor is not claimed. The subcombination has separate utility such as the establishment of baseline conditions of a part using eddy current sensor.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 27-36, as amended 7-27-2005, are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The amendment filed on 7-27-2005 amending all claims drawn to the elected invention to present only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because the claims recite performing future inspections based on an absolute electrical property, as opposed to establishing a baseline condition with an eddy sensor as in the originally presented and examined claims.

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30)

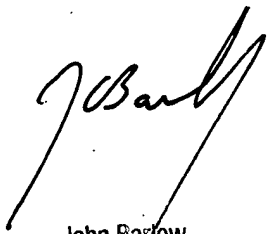
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DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Cherry whose telephone number is (571) 272-2272. The examiner can normally be reached on M-F 8:00-4:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SJC  
10/16/05

  
John Barlow  
Supervisory Patent Examiner  
Technology Center 2800